

Conflicts for Advisory Board Members

Thanks for Your Service to the City

- ◆ Local government depends on the service of community-minded individuals.
- ◆ With public service come additional responsibilities.
- ◆ Board members are City officials.
- ◆ As a City official you become subject to laws that are designed to ensure the transparency and impartiality of your government.

- ◆ The application of conflict rules requires a close knowledge of an individual's relationships and financial affairs.
- ◆ It is ultimately the personal responsibility of each board member to be aware of the relevant rules and to comply with them.

- ◆ When your personal interests intrude on your ability to adhere to the highest standards in your decision making, or if it would appear so an observer, you have a conflict of interest.

- ◆ Conflicts can arise in a number of ways.
 - **financial relationships**
 - **occupational concerns**
 - **personal relationships**

- ◆ Could there be benefits (or consequences) for me that could cast doubt my objectivity?
- ◆ Do I have a close personal or financial relationship with an interested party?
- ◆ Could this situation have an influence on any future opportunities for me?
- ◆ How would I feel if my role were portrayed in the media?
- ◆ Would I be happy if my personal connection to the issue became known to the public or my colleagues?

◆ Conflict rules:

- **may prohibit the conflict**
- **may require recusal (taking yourself out of the loop)**
- **may leave the matter up to your judgment (the law cannot always codify common sense)**

- ◆ A person who is
 - **registered as a lobbyist**
 - **required to register as a lobbyist, or**
 - **an employee of a person required to register**under the City's lobbying ordinance
- ◆ may not serve on a City board within three years of engaging in lobbying activity.

- ◆ A City board member may not:
 - **formally appear before the board of which he or she is a member while acting as an advocate for himself or herself, or for any other person, group, or entity,**
 - **accept paid campaign work relating to a ballot proposition if the participated in the board's discussion or vote regarding the proposition.**

- ◆ A person may not be involved in the
 - development,
 - evaluation, or
 - decision-making process
 - of any solicitation
- ◆ And have a financial interest, direct or indirect, in the contract resulting from that solicitation

- ◆ The City Code requires a board member to recuse when
 - **the member has a “substantial interest” in a person or entity**
 - **that would be “affected” by a vote of the board of which he or she is a member.**

A substantial interest may arise from:

- ◆ Ownership
- ◆ Income
- ◆ Control
- ◆ Debt
- ◆ Family
- ◆ Doing business

- ◆ “Affected” means “reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question.”

- ◆ The vote or decision need not be the only producing cause of the economic effect or consequence. It's enough that the effect or consequence would be reasonably expected to occur.
- ◆ The vote or decision need not be the only decision or the final decision on the matter.

- ◆ A City board member who serves as
 - ◆ **a corporate officer**
 - ◆ **or member of the board of directors**
 - ◆ **of a nonprofit entity**
- ◆ may not participate in a vote or decision regarding funding by or through the City for the entity

◆ To Recuse

- **Indicate that a conflict exists with a particular item on the attendance sheet.**
- **State from the dais that you are recusing and why**
 - ◆ **it must be included in the meeting's official minutes**
- **Take no part in any discussion or vote, whether on or off the dais.**
 - ◆ **You do not have to leave the dais during the discussion or vote, but you may wish to do so.**
 - ◆ **Remember you may not appear before your own board as an advocate for yourself or any other person.**

- ◆ If a City board reviews a federally-funded project or activity, the members are *also* subject to the federal conflict rules for the federal program that is the source of the funding.
- ◆ Each federal program has specific conflict of interest rules.
 - **Requirements set by various federal agencies may vary.**

- ◆ Typically, an official or an official's relative or business associate may not have a financial interest in the federal activity.
- ◆ The prohibition applies during the official's tenure and for a year thereafter.

- ◆ Some conflicts are not recognized by the law and require common sense
- ◆ Don't over-legalize
- ◆ Be sensitive to public perception

- ◆ The City's Anti-Lobbying Ordinance
 - Each response is considered on the same basis
 - Respondents have equal access to information
 - Respondents have the same opportunity to present information
 - To protect the competitive bid process

◆ A Single Point of Contact

- **Is designated in each solicitation to respond to all questions and comments pertaining to the solicitation.**

◆ Questions?

◆ Contact

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